

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE NEW YORK CITY	:	
DISTRICT COUNCIL OF CARPENTERS	:	19 Civ. 7995 (LGS) (SN)
PENSION FUND, WELFARE FUND,	:	
ANNUITY FUND, APPRENTICESHIP,	:	<u>ORDER</u>
JOURNEYMAN RETRAINING,	:	
EDUCATIONAL AND INDUSTRY FUND, et	:	
al.,	:	
	:	
Plaintiffs,	:	
	:	
-against-	:	
	:	
MINELLI CONSTRUCTION CO., INC., et al.,	:	
Defendants.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on November 7, 2019, a Final Default Judgment was entered against the defaulting Defendant Minelli Construction Co., Inc. (“Minelli”). Dkt. No. 34.

WHEREAS, by separate Order dated April 23, 2020, the matter was referred to Magistrate Judge Sarah Netburn for an inquest on damages. Dkt. No. 35.

WHEREAS, on January 4, 2021, Judge Netburn issued a Report and Recommendation (the “Report”) on an inquest on damages to award Plaintiff “(1) \$2,612.96 in unpaid contributions; (2) interest on the principal unpaid fringe benefit contributions from the Audit period and on the LaGuardia Project (minus \$11,220.76) through the entry of judgment, at the rate provided by the CBAs; (3) \$94,911.51 in liquidated damages; (4) \$2,850 in audit costs; and (5) \$12,929.28 in attorney’s fees and costs.” Dkt. No. 51.

WHEREAS, on February 9, 2021, Judge Netburn issued a supplemental Report and Recommendation (the “Second Report”), addressing the issue of interest. Dkt. No. 54. The Second Report recommends the award of “\$45,898.53 in prejudgment interest on the unpaid fringe benefit contributions, plus additional interest through the entry of judgment, at the rate

provided by the CBAs.” Dkt. No. 54.

WHEREAS, the CBAs provide for interest “calculated at the prime lending rate of Citibank plus 200 basis points, compounded daily, on a declining principal basis.” Dkt. No. 53, ¶¶ 6-7.

WHEREAS, “[i]n order to calculate any additional interest through the date of judgment, interest may be calculated based on the number of days between January 19, 2021 and the date of judgment at a rate of 5.25%.” Dkt. No. 53, ¶ 17.

WHEREAS, the amount of pre-judgment interest that accrued on the unpaid fringe benefits between February 9, 2021, and March 3, 2021, is \$5,441.18.

WHEREAS, as stated in the Report and Second Report, the parties had fourteen (14) days to file written objections. Dkt. Nos. 51 and 54.

WHEREAS, no objections were timely filed.

WHEREAS, in reviewing a magistrate judge’s report and recommendation, a district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Jones v. Berryhill*, No. 18 Civ. 11233, 2020 WL 1503507, at *1 (S.D.N.Y. Mar. 30, 2020) (internal citations and quotation marks omitted).

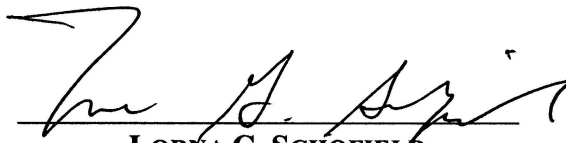
WHEREAS, the Court finds no clear error on the face of the record. It is hereby

ORDERED that the Report and Second Report are adopted in full, for the reasons stated in the Report and Second Report.

The Clerk of Court is respectfully directed to enter a default judgment in favor of Plaintiff and against Minelli, in the amount (1) \$2,612.96 in unpaid contributions; (2) \$51,339.71 in

prejudgment interest on the principal unpaid fringe benefit contributions through the entry of judgment; (3) \$94,911.51 in liquidated damages; (4) \$2,850 in audit costs; and (5) \$12,929.28 in attorney's fees and costs. Post-judgment interest will accrue at the statutory rate. Upon entry of default judgment against Minelli, the Clerk of Court is directed to close this case.

Dated: March 3, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE